

UNITED NATIONS  
WORKING GROUP ON INDIGENOUS POPULATIONS  
SEVENTH SESSION, JULY - AUGUST 1989

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WGIP 29 GOV/NAM.CAN/1

a) EVOLUTION OF STANDARDS CONCERNING  
THE RIGHTS OF INDIGENOUS POPULATIONS

STATEMENT BY THE OBSERVER DELEGATION OF CANADA  
DELIVERED BY MR. J.D. LIVERMORE,  
DIRECTOR, HUMAN RIGHTS AND SOCIAL AFFAIRS DIVISION,  
DEPARTMENT OF EXTERNAL AFFAIRS, OTTAWA

Madame Chairman,

Canada is pleased to have another opportunity to comment on the standard-setting work of the Working Group on Indigenous Populations. Since the Group was established, my country has been among its strongest supporters.

We have paid particular and careful attention to your ambitious work on draft principles on indigenous rights. Madame Chairman, you are to be commended on the arduous task that you have undertaken in this connection. In this important enterprise, it is necessary for you to grapple with difficult conceptual issues, to take into consideration the many comments made by interested observers over the last seven years, and to attempt to formulate precise legal principles of universal application.

The Canadian government has commented extensively, both orally and in writing, on the draft principles produced at each stage of your work. Our most recent comments, focussing on the useful and thorough working paper prepared by you in 1988, were submitted in May 1989 and have been incorporated into the compilation of government comments (document E/CN.4/Sub.2/AC.4/1989/2 of 15 June). In those comments my government noted the importance of having principles which are unambiguous, achievable, protective of the rights of individuals and reflective of a balance in regard to the rights of third parties.

We have now received the revised text based on your preliminary review of the comments received from various parties to date. You have wisely decided, for the time being, to restrict yourself, in your own words, "as much as possible to technical alterations of preambular and operative principles". We understand that you will be providing a complete and substantive revision of the draft principles at a later date, once

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more replies are received from all parties concerned. We urge other parties and, in particular, other governments, to submit comments on the draft principles. We look forward to seeing the revised document and intend to provide comments on it for your consideration.

Madame Chairman, you are all too well aware of the fact that current efforts to draft the highest possible standards and obligations in regards to indigenous populations are taking place in a difficult international environment. The enforcement of current and accepted rights leaves much to be desired. The development of new rights is therefore bound to be resisted. Recent events in a number of countries have provided all too much evidence of how existing human rights standards are often brutally and tragically ignored in practice.

uses population

Despite these problems of enforcement and effective remedies, we continue to believe that we must persist in our efforts, and in particular that the approach most likely to provide practical benefits to indigenous populations is to build on achievements to date. Our dual approach is to start with the foundations of existing international human rights instruments, at least as a point of departure. We take this approach because the resistance we face regarding the enforcement of some current rights would be multiplied many times over if we were to start with principles which depart in a marked fashion from present human rights standards. At the same time, and as a second step, we recognize that, because of the particular circumstances of indigenous populations, existing rights will have to be further elaborated in order to ensure indigenous populations the full enjoyment of fundamental human rights, on an equal basis with other citizens. Madame Chairman, in this way we can achieve our common objective of developing a set of reasonable, achievable principles which will be of use to, and provide real protection for, indigenous populations.

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Moreover, Madame Chairman, we believe that we should set this particular exercise in the context of other United Nations activities with similar objectives. For example, the Commission on Human Rights is currently drafting a declaration on the right of individuals and groups to promote human rights; the General Assembly is finalizing a draft convention on migrant workers; the Sub-Commission is initiating study of the problem of compensation for victims of human rights violations. While each exercise involves a different inter-play of issues, principles, interests and negotiating parties, there are common elements of which the most important, perhaps, is the need to obtain the widest possible consensus for the highest possible standards. Few countries, NGOs or interested observers see their views reflected in their entirety after the lengthy negotiations leading to the adoption of such text. Expectations of obtaining one hundred per cent of goals are bound to lead to impasse and disappointment.

In our view, your crucial challenge and opportunity is to develop draft principles which will provide tangible benefits and protection to indigenous populations. We offer our assistance to you in this difficult and worthy task.

Thank you Madame Chairman.

*Watch expectations*

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Madame Chairman,

I am pleased to have the opportunity to speak briefly regarding the possible enlargement of the areas of application and activity of the Voluntary Fund. As one of the largest contributors to the Fund, Canada has been pleased to assist indigenous representatives to participate in the sessions of this Working Group. We have welcomed their valuable contributions to its work to date.

In our view, attendance at this forum by voluntary Fund recipients is a first step, made possible now through the initiation of Fund activities in 1988. Next it is important to examine ways in which their role can be enhanced and their contributions maximized.

During consultations with Canadian indigenous representatives following last year's WGIP session, it was suggested that a portion of the voluntary Fund contributions could be devoted to providing information to Fund recipients prior to the annual sessions. We discussed this idea with other indigenous representatives and yourself, Madame Chairman, during the last session of the Commission on Human Rights. The suggestion was received positively and we made our proposal to the Commission which adopted it.

What we have in mind, Madame Chairman, is that a modest portion of the available monies in the Voluntary Fund be used to provide recipients with information prior to the WGIP session. This would be information regarding the functions, work and objectives of the WGIP and the role that recipients have in its activities. In particular, the information should explain the important work under way

activity by participants. This will allow recipients to concentrate on which will best contribute to the WGIP's work.

We see this information service as complementary to that already provided by the NGO, International Service for Human Rights, which has during the session offered secretariat back-up assistance to indigenous representatives attending the working group. It might be that an organization such as the International Service could play a useful role in connection with additional preparation services.

Madame Chairman, we leave to you and the other members of the Commission to determine whether this idea has merit, and, if so, what the precise nature of the orientation to be provided to recipients might be. We will discuss this further during the course of this session of the Sub-Commission.

Thank you Madame Chairman.

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**Meeting of Experts on  
Indigenous Self-Government**

**Statement by the Observer  
Delegation of Canada**



**Madame Chairman,**

**The Canadian delegation would like to present some comments on the proposal, contained in General Assembly Resolution 42/47 and Commission on Human Rights Decision 1988/106, for a meeting of experts to review national experience in the operation of schemes of local, internal self-government for indigenous populations.**

**As we have already noted in our statement on developments, the Government of Canada is committed to the goal of increased self-government for indigenous groups. We therefore welcome the idea of a meeting of experts devoted to a discussion of self-government arrangements.**

**In order to best contribute to the universal standard-setting mandate of this Working Group we would suggest that an appropriate objective for an experts' seminar be to further our understanding of the concept of self-government and the ways in which its expression might advance the aspirations of indigenous people world-wide. This goal could be accomplished through an examination of a number of areas including:**

- current practices and experiences in the area of self-government;**
- various fiscal and administrative schemes in the field; and**
- planning and implementation of self-government, including constitutional arrangements.**

In advance of the meeting of experts, we recommend the preparation of background papers, including at least one by a State government with significant experience in the area of self-government. It would be helpful, as well, for the seminar to have before it case studies dealing with the practical aspects of implementing self-government.

On the issue of participation, we believe that it would be useful to involve those indigenous groups, experts, and State governments with the most significant and direct practical experience in the design and implementation of self-government arrangements. While respecting the principle of geographical representation, you will also have to bear in mind the diversity both of indigenous needs and goals, and differences in State systems, all of which require some presence at the seminar.

In closing, Madame Chairman, my government supports the proposed experts' meeting, and would be pleased to participate in such an initiative. We anticipate that this seminar will make a meaningful contribution to the search for global, practical and innovative self-government arrangements.

Thank you, Madame Chairman.

**UNITED NATIONS  
WORKING GROUP ON INDIGENOUS POPULATIONS  
SEVENTH SESSION, JULY - AUGUST 1989  
GENEVA**

**d) REVIEW OF DEVELOPMENTS PERTAINING TO THE PROMOTION AND  
PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS OF  
INDIGENOUS POPULATIONS**

**STATEMENT BY THE OBSERVER DELEGATION OF CANADA  
DELIVERED BY MR. J.D. LIVERMORE,  
DIRECTOR, HUMAN RIGHTS AND SOCIAL AFFAIRS DIVISION,  
DEPARTMENT OF EXTERNAL AFFAIRS**

**Madame Chairman, I welcome this opportunity to make an opening statement on behalf of the Government of Canada.**

**First, I would like to congratulate you, Mme Chairman, on your re-election as Chairman of the Working Group on Indigenous Populations. Over the course of the past few years, we have had occasion to meet here, in Canada, and in other locations. It is a pleasure for me to be able to reaffirm our cooperation with you personally and with the Working Group.**

**Let me begin by saying that the Canadian Government is pleased to be able to continue its participation in the important undertakings of the Working Group, both through its review of relevant developments in Canada and through its commentary on standard setting. Canada is also pleased to be able to continue its financial support of the Voluntary Fund for Indigenous Populations. We believe that by having the widest possible indigenous representation, the Working Group can more effectively fulfill its role of developing standards related to all indigenous populations around the world. We wish to enhance the role that indigenous representatives have to play at these sessions. In order to do this we proposed at the last session of the Commission on Human Rights that some of the Voluntary Fund be used to provide information and orientation to new indigenous participants in this forum. This is an idea which arose in the course of our consultations with Canadian indigenous representatives. We are pleased that it has been placed on the agenda for the current meeting.**

We will be making a statement later concerning standard setting. At this time, Madame Chairman, I would like to review significant developments in Canada over the past year which may be of interest to the Working Group in its efforts to formulate universally applicable standards.

As the Canadian delegation mentioned last year, a number of constitutional and non-constitutional initiatives in our country focus on strengthening the special relationships between Canada and its aboriginal groups. As you are aware, Canada's Constitution contains specific provisions for the recognition and protection of existing aboriginal and treaty rights, including those acquired by way of land claims agreement.

On many occasions the Prime Minister of Canada has indicated his commitment to a constitutional amendment on self-government; indeed he has reaffirmed his willingness to convene another First Ministers' Conference to that end when there is a proposal that offers reasonable prospects for agreement. While working towards a self-government constitutional amendment, the Canadian government continues to pursue self-government initiatives with aboriginal groups and continues to support aboriginal self-government through community negotiations.

With regard to our Métis people, negotiations are under way on self-government in four provinces and we are hopeful that other provinces will launch similar processes. These negotiations provide a practical means of furthering greater autonomy and self-reliance and are an important element of our government's commitment to self-government.

Of interest in this regard is the recent accord between the Government of Alberta and the Alberta Federation of Métis Settlements Association for the implementation of an historic land agreement, which will afford the Métis some measure of self government. Specifically, this will involve the transfer of 1.2 million acres of land for Métis corporate entities with co-management of sub-surface resources, and would establish regional and municipal type self-government for the Métis on these lands.

Last year, Madame Chairman, we noted that over 70 self-government proposals had been received from Indian communities. That number is now 121 proposals, covering about 201 Indian bands among the 592 bands in Canada. Negotiations with these communities continue to be conducted without prejudice to the rights of aboriginal peoples which are already constitutionally protected. Under the new guidelines on such negotiations, a number of elements must be addressed: for example, institutions of government; arrangements for elections; membership; land title and management; and federal financing. As well, negotiations can also occur on other areas of concern, such as: education; health; and economic development. The first framework agreement with an Indian band under this new policy was signed a few months ago.

As a matter of policy, the Canadian government encourages Indian people to take greater control over their own communities, including the enhancement of band by-law making capacities, band control of membership, the development of global funding arrangements, program transfers and the promotion of economic development.

Last year, the Canadian delegation reported that one Indian band in British Columbia, in conjunction with the Canadian government, had developed amendments to the Indian Act which will allow bands to tax all interests in Indian land. Legislation has given effect to the new provisions and an Indian Taxation Advisory Board has been

established. Six bands have adopted such taxation by-laws and numerous others have indicated their desire to do so.

We can now report, Madame Chairman, that nearly 60,000 individuals have been restored to Indian status, or registered for the first time, as a result of the repeal of discriminatory provisions of the Indian Act. And 229 Indian bands have taken control of their own membership. As well, a significant increase in funding has been budgeted for 1989-90 to respond to the program and services needs of these people. This enables bands to obtain needed housing and community infrastructure; education; social services; economic development and band support.

A number of speakers have already referred to federal post-secondary educational support programs. Let it be clear that primary and secondary education is not at issue. The changes to which reference has been made relate to post-secondary programs, that is, university studies for Indians and Inuit. These provide \$130 million in annual benefits to cover grants for tuition, living and travel allowances and other costs to eligible persons to enable them to attend post-secondary institutions.

We share the views expressed by earlier speakers about the importance attached to education as a means of furthering indigenous aspirations. However, to be effective, programs must be developed not only to increase the numbers of indigenous persons attending post-secondary institutions, but also to increase the numbers graduating from such institutions. There has been considerable discussion in Canada about proposed changes to this program. In response, the government has entered into several bilateral processes to examine further these program changes. We should emphasize that these programs offer educational benefits to Indians and Inuit which are not available to the non-indigenous population of Canada. Contrary to the impression

which might have been conveyed by some earlier speakers, Canada remains committed to an effective policy of higher education for indigenous persons.

Returning to the issue of increased autonomy, we note that there are now thirty bands and two tribal councils (representing twenty-three bands) which have signed multi-year funding agreements, known as Alternative Funding Arrangements, totalling some \$300 million. These agreements allow these bands to do longer-range planning, to use their resources to fit their own needs and priorities, and to take on increased responsibility for the delivery of programs. Overall, it should be noted that in 1989-90 Indian groups will be managing over 70 per cent of the total Indian and Inuit Affairs program budget of \$2.3 billion.

It should be noted that earlier this year the Canadian Government found itself required to take a number of budgetary measures aimed at reducing the overall federal deficit. This involved painful cuts to such important areas as defence spending and overseas development assistance. However, it should be emphasized that the parts of the budget allocated to Indian and Inuit Affairs has actually increased 11 percent over the previous year. When programs of other federal departments designed specifically for indigenous Canadians are taken into account, the total amount of money budgeted is well over \$3 billion a year.

We share the views expressed by earlier speakers that economic development is also a key component of aboriginal autonomy. In June 1989, after two years of consultation with Canada's aboriginal people on their economic future, the government announced the establishment of the Canadian Aboriginal Economic Development Strategy to assist native economic development. Combining this with expenditures targeted under other economic programs, the federal government plans to



spend over \$1.4 billion in order to create major new opportunities for aboriginal individuals and communities to develop and expand commercial enterprises and to obtain long-term employment.

As we mentioned in our statement last year, the Canadian Government is still working closely with Canadian indigenous and industry representatives to forestall a serious threat to the Canadian fur industry. That industry forms the economic base of a significant number of indigenous communities. We are encouraged by the recent recognition by the European Parliament of the special hunting and trapping rights of indigenous populations. It is clear, though, that further sensitization is required to offset the deleterious efforts of the anti-fur lobby, which refuses to recognize the validity or even the existence of a living indigenous culture and economy based upon the fur trade.

Support for the economies of the indigenous peoples is an important component of the 1988 federal policy statement, A Northern Political and Economic Framework. This emphasizes the principle of sustainable development and the interdependence of the political and economic developments processes. The Framework particularly stresses the need to accommodate aboriginal interests in the course of fostering strong public governments in the Northwest Territories and Yukon. As part of this process, the settlement of aboriginal land claims is established as a primary objective.

In line with the Canadian Government's comprehensive land claims policy, important milestones have been reached in the negotiation of two comprehensive claims. I am happy to report the September 1988 signing of an Agreement-In-Principle by the Dene-Métis and the federal and Northwest Territories governments. The proposed settlement package will comprise \$500 million in financial compensation and resource revenue-sharing. The settlement lands of 180,000 square kilometres – roughly the size of

Belgium, Denmark, Ireland and the Netherlands combined -- will make the beneficiaries the largest private landowners in North America. Work on the Final Agreement is now under way.

More recently, an Agreement-In-Principle was reached in May 1989 on a comprehensive land claims agreement with the Council for Yukon Indians. In addition to financial compensation, the Agreement-In-Principle entitles Yukon Indians to approximately 41,400 square kilometres of settlement lands, an area equivalent to the land mass of Switzerland, of which approximately 25,900 square kilometres include sub-surface rights.

Considerations of time preclude our reporting on other developments in Canada since last year's session of the Working Group. Canada is continuing its efforts, in co-operation with native leaders, to address indigenous concerns with specific reference to enhancing the standards of living of its aboriginal citizens. The developments mentioned all clearly demonstrate that progress is in fact continuing.

I can assure you, Madame Chairman, that the Government of Canada, working with aboriginal peoples, will continue to build on these positive developments towards the realization of the aspirations of aboriginal Canadians.

Thank you, Madame Chairman.